

**Written Testimony of Tarek F. Maassarani
Government Accountability Project**

**Before the
Investigations and Oversight Subcommittee of the
Committee on Science and Technology
U.S. House of Representatives**

**Hearing on
“Shaping the Message, Distorting the Science:
Media Strategies to Influence Public Policy”**

March 28, 2007

Introduction

Mr. Chairman, Ranking Member, Members of the Subcommittee. I thank you for the opportunity to share the findings of my investigative report. Until recently, I served as full-time staff attorney and investigator for the Government Accountability Project, the nation’s leading whistleblower defense and advocacy organization. In February 2006, prompted by the well-publicized concerns of Dr. James Hansen and Rick Piltz, GAP initiated an in-depth investigation to determine the extent of political interference with federal climate research and the dissemination of scientific information.

The investigation found no incidents of direct interference with climate change research. Instead, unduly restrictive policies and practices were found to occur largely in the communication of “sensitive” scientific information to the media, the public, and Congress. The effect of these restrictive communications policies and practices has been to misrepresent and under-represent the taxpayer-funded scientific knowledge generated by federal climate science agencies and programs. The bottom line is, we need the government to be stimulating, not undermining, an informed public debate on important scientific subjects, including climate change. We have included for your consideration a number of recommendations for the administration and the Congress that would help achieve this goal.

The GAP Investigation

The GAP investigation focused primarily on the effects of restrictive federal government policies and practices, especially those applied to control communications from particular employees on “sensitive” aspects of climate science. The investigation also addressed government efforts to control the communication of scientific climate-related information to Congress, the scientific community, and the public. The complete findings have been incorporated into my investigative and synthesis report, *Redacting the Science of Climate Change*.

As lead investigator, I conducted more than 40 interviews with climate scientists, communications officers, agency and program officials, and journalists. These sources – both named and confidential – represented inside perspectives from the National Oceanic and Atmospheric Administration (NOAA), National Aeronautics and Space Administration (NASA), Climate Change Science Program (CCSP), Environmental Protection Agency (EPA), United States Geological Survey, and National Center for Atmospheric Research, as well as local, national, and international media.

In addition to interviews, I have reviewed thousands of pages of documentation obtained from Freedom of Information Act disclosures, as well as public and internal agency sources. I also reviewed more than 100 published news articles and more than three dozen congressional documents including reports, testimonies, and questions for the record.

Overview

A perception of inappropriate political interference is widespread among employees of the federal climate science agencies and programs, as well as among journalists from national, mainstream outlets who cover their research. This perception is substantiated by evidence from inside sources, scientists' personal testimonies, journalists, and document disclosures.

My report demonstrates how policies and practices have increasingly restricted the flow of scientific information emerging from publicly-funded climate change research. This has affected the media's ability to report on the science, public officials' capacity to respond with appropriate policies, and the public's grasp of an environmental issue with profound consequences for our future.

The investigation found no incidents of direct interference with *conducting* climate change research. Instead, unduly restrictive policies and practices were found that affected the *communication* of "sensitive" scientific information to the media, the public, and Congress. In this context, the term "sensitive scientific information" is meant to signify science that is seen as leading to conclusions that call into question existing policy positions or objectives and includes, for example, some of the research dealing with the effects of climate change or greenhouse gases on hurricanes, sea levels, ice sheets, glaciers, marine life, polar bears, the water supply, and human society.

Media Communications

A review of the media policies and agency practices controlling the communication of scientific information at NASA, NOAA, and other agencies, demonstrated the following:

- Agency media policies and practices required scientists to obtain pre-approval from public affairs headquarters following an initial media request before proceeding with an interview. Likewise, press releases and press conferences also required high-level clearance.
- At times, media policies and practices mandated that scientists forward all relevant requests to a press officer who would then route the interview to other scientists or restrict the topics that could be discussed.
- Agency directives asked scientists to provide anticipated media questions and their expected answers prior to the interview.
- Finally, press officers frequently monitored interviews over conference call or in person. In one instance, a press officer flew out on two separate occasions from Washington, DC, to Hawaii, then Boulder, to monitor two interviews with one scientist.

As a result, scientists lost a considerable number of opportunities to communicate the results of their research to the public due to delay or denial of interviews and/or press releases held up during a clearance process. In one instance, a NOAA scientist complained that the prior rate of one media request every two to three weeks had slowed to one every two to three months as a result of new pre-approval requirements. In another instance, a NASA scientist witnessed his press release on climate change edited to minimize its media impact before it was approved. With such denials, or delays of more than two-weeks, some scientists have given up trying to release them. Others feel discouraged from pursuing media contacts.

The investigation has demonstrated that these restrictive policies and practices have increased steadily, albeit unevenly, over time. In 2001, there were only a few isolated instances of mandatory pre-approval at NOAA, while most labs enjoyed a simple “notice and recap” policy in which only prior notification of public affairs and a subsequent follow-up are required. Similarly, NASA’s policy did not require pre-approval. At NOAA, public affairs offices then implemented clearance requirements following the release of a hurricane season outlook in 2002 and a report by Ocean Commission in 2004. In June 2004, NOAA issued a written media policy that codified a number of these prior practices. Although some NOAA laboratories continued to operate largely by “notice and recap,” pre-approval was required for certain “hot button” issues and scientists, such as one researcher who had recently published his findings from a modeling study of the relationship between hurricanes and climate change. Public affairs required his interviews to be monitored.

In the weeks leading up to the 2004 presidential election, a regional EPA office issued a pre-approval directive and NASA scientists experienced numerous “disappearances” of press releases. In 2005, a year of record-setting global temperatures, politically-appointed senior management at NASA public affairs headquarters implemented an unwritten practice of requiring their special pre-approval for media requests and press

releases concerning “warming,” “melting,” or “glaciers.” A mid-level press officer recalls these officials conferring with the White House Office of Science and Technology Policy and pressuring him to suppress the media communications under the pretext of some “excuse.”

At NOAA, a reminder of the media policy was again disseminated to certain agency laboratories at the start of the 2005 hurricane season and then again after the publication of a controversial study linking increased hurricanes activity and climate change. NOAA first widely publicized its media policy throughout its research branches following Hurricane Katrina. At around this time, documents began to reveal that media inquiries were required to obtain clearance from the Department of Commerce and the White House Council on Environmental Quality. Media contacts with a NOAA researcher that disputed a connection between hurricanes and climate change were given preference over those with another researcher whose models suggested a link. NOAA also posted an article on its website claiming an agency-wide consensus against the link.

In early January of 2006, NOAA issued implementation protocols for the 2004 media policy, as well as a press release review process flow sheet. The implementation protocols explicitly require pre-approval for press releases and the drafting of prospective answers to anticipated questions, as well as routing for media requests. The press release flow sheet included the Department of Commerce in its 13-stage review process. In June 2006, an EPA scientist studying sea level rise and coastal erosion was required to route all media requests to his public affairs office.

Public and Congressional Communications

Interference with scientific communications to the public and Congress included inappropriate editing, delay, and suppression of reports and other printed and online material. For example, following its 2001 publication, senior officials prohibited all references to the CCSP’s congressionally-mandated *National Assessment of the Potential Consequences of Climate Variability and Change* from websites, discussions, and subsequent assessment reports. The administration similarly disowned the 2002 *U.S. Climate Action Report*, prepared by the EPA as a requirement of the United Nations Framework Convention on Climate Change

In September 2002, the administration removed a section on climate change from the EPA’s annual air pollution report, even though the topic had been discussed in the report in each of the preceding five years. Then in June 2003, the EPA removed an entire chapter on climate change after the White House had tried to so substantially alter its contents that leaving it in would compromise the credibility of the agency.

Similarly for websites, the EPA’s Global Warming website, actively updated prior to 2002, saw little if any activity for nearly four years. At about the same time that the EPA website was revived, the State Department website was altered to hide much of its climate-related materials. Although the Communications Interagency Working Group

CCSP is mandated to prepare numerous informational products for the public on climate change research, its website has uploaded only a handful of materials since 2004.

Conclusions

Political interference is top-down. Directives and signals from executive offices such as the Council on Environmental Quality, the Office of Management and Budget, and the Office of Science and Technology Policy are channeled through political appointees and younger politically-aligned career civil servants at lower-level press and policy offices. These channels of communications largely take place off the record, frequently deviating from written policy guidelines and involving individuals with few scientific qualifications. Whereas low-level agency and program support staff are typically sympathetic to the scientists and their science, as one scientist noted, “the closer you get to Washington, the more hostile [they are to the science].” Senior managers have been aware of the perception and incidents of interference longer than they have attempted to address them. Often, they may be conforming to pressures from above to downplay politically-inconvenient science.

The restrictive communications policies and practices discussed here are largely characterized by internal inconsistencies, ambiguity, and a lack of transparency. They send a chilling signal to federal employees, including scientists and public affairs officers, that further freeze the flow of information.

Whether these restrictive communications policies and practices have precipitated overt and, often, well-publicized incidents or have acted by more subtle processes, their effect has been to misrepresent and under-represent the taxpayer-funded scientific knowledge generated by federal climate science agencies and programs. In some cases, the policies and practices constitute systematic, institutionalized constitutional and statutory infringements of the federal climate science employees’ free speech and whistleblower rights. In most cases, the policies and practices undermine the government’s inherent obligation to disseminate the results of publicly-funded research.

Increased congressional and media attention on political suppression and interference with climate science communication has led to statements of commitment to scientific openness by administration officials and a loosening of communication policies and their application. This pressure has led to actual or anticipated reforms, as well as improved morale, at NASA and NOAA, though institutional problems and policy weaknesses remain (See, e.g., GAP’s memorandum to NASA scientists, enclosed as Attachment 1). Even in rhetoric, the reform movement has largely missed ongoing problems at EPA and CCSP.

Recommendations

GAP recommends that the executive branch and all federal agencies supporting climate change research:

- Implement a clear and transparent “notice and recap” media policy in which only a prior notification to public affairs and a subsequent follow-up are required. Correspondingly, eliminate mandatory pre-approval for media contacts, selective routing of media requests, drafting of anticipated questions and answers by scientists prior to interviews, and monitoring of media communications.
- Develop a transparent communications policy at the Climate Change Science Program (CCSP) and streamline the approval process for CCSP products and communications.
- Reaffirm and educate federal employees about their right to speak on any subject so long as they make clear that they are expressing their personal views and do not use government time and resources – with the important proviso that no restrictions apply when federal employees are exercising their whistleblower rights to disclose unclassified information that is reasonably believed to evidence illegality, gross waste, gross mismanagement, abuse of power, or substantial and specific danger to public health or safety.
- Bring media policies into compliance with the Anti-Gag Statute, the Whistleblower Protection Act, the Lloyd-Lafollette Act for communications with Congress, and related provisions.
- Ensure the timely and pro-active coordination of press releases and media contacts so as to promote rather than limit the flow of information.
- Ensure that content editing and scientific quality control remain with qualified scientists and the peer-review process.
- Reaffirm and educate federal employees on their right to review any final draft that is to be published under their name or that substantially references their research.
- Establish accountability procedures that increase transparency and provide for internal reporting of undue interference with science.
- Investigate and correct inappropriate policies, practices, and incidents such as those described in this report.

GAP recommends that Congress:

- Enact legislation that extends federal free speech and whistleblower rights to all employees conducting federally-funded scientific, technical, or other professional research, whether the employee is part of the civil service, a contractor, grant recipient, or receives taxpayer support in any other manner.
- Ensure that objective and independent science is the basis for policymaking.
- Strengthen its essential oversight functions with regard to the integrity of communications about scientific research.

MEMORANDUM

To: Climate Scientists

From: Government Accountability Project

Re: Analysis of NASA's Recently Released Media Policy

The Government Accountability Project (GAP) is issuing advisory comments on NASA's new media policy that it released yesterday, March 30. The new policy came in response to public outcry over NASA's suppression of climate science research inconsistent with the Bush administration's political agenda. NASA is touting the development as a free-speech breakthrough for agency scientists.

GAP identified the areas *in which the new policy is an improvement*:

- NASA Administrator Michael Griffin's reassuring rhetoric is of symbolic value, demonstrating official respect for scientific freedom.
- The new media policy does not cover scientific reports, web postings, or professional dialogue such as at conferences, allowing scientists to share information with their colleagues without going through public affairs political appointees.
- The policy officially recognizes the free speech right for scientists to express their "personal views" when they make clear that their statements are not being made on behalf of NASA.

However, *in six critical areas the new policy falls short* of genuine scientific freedom and accountability, and potentially undermines the positive guarantees:

- While recognizing the existence of a "personal views" exception, the policy doesn't announce the circumstances when that right cancels out conflicting restrictions, which are phrased in absolute terms applying to contexts such as "any activities" with significant media potential. This leaves a cloud of uncertainty that translates into a chilling effect for scientists.
- The policy fails to comply with the legally-mandated requirements of the Anti-Gag Statute to explicitly include notice that the Whistleblower Protection Act and Lloyd Lafollette Act (for congressional communications) limit and supersede its restrictions.
- The policy institutionalizes prior restraint censorship through "review and clearance by appropriate officials" for "all NASA employees" involved in "preparing and issuing" public information. This means that scientists can be censored and will need advance permission from the "appropriate" official before anything can be released.
- The policy defies the WPA by requiring prior approval for all whistleblower disclosures that are "Sensitive But Unclassified" (SBU). The legal definition of SBU is broad and vague, to the point that it can be interpreted to sweep in virtually anything. The WPA only permits that restriction for classified documents or those whose public release is specifically banned by statute.

- The policy bans employees' free speech and WPA rights to make anonymous disclosures, requiring them to work with NASA public affairs “prior to releasing information” or “engaging in any activities or events... that have the potential to generate significant media or public interest or inquiry.”
- The policy gives NASA the power to control the timing of all disclosures, which means scientists can be gagged until the information is dated and the need for the public to know about critical scientific findings has passed.

In December of last year, NASA climatologist Dr. James Hansen was threatened with “dire consequences” by a political appointee for statements he made about the consequences of climate change. According to GAP’s legal director, Tom Devine, “Under this so-called reform, Dr. Hansen would still be in danger of ‘dire consequences’ for sharing his research, although that threat is what sparked the new policy in the first place. The new policy violates the Whistleblower Protection Act, the Anti-Gag Statute, and the law protecting communications with Congress, the Lloyd-Lafollette Act. The loopholes are not innocent mistakes or oversights. GAP extensively briefed the agency lawyer on these requirements, who insisted he understood them fully. NASA is intentionally defying the good government anti-secrecy laws.”